

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

P.L.-2  
McConnell

119996

**FILE:** B-208557.3

**DATE:** November 29, 1982

**MATTER OF:** Radix II Incorporated

**DIGEST:**

1. GAO affirms its decision dismissing a protest raised by a potential supplier to several disappointed bidders since the protest generally challenges the propriety of the procuring agency's rejection of certain bids as nonresponsive and thus the protester, who is ineligible for award, is not an interested party under GAO Bid Protest Procedures.
2. Where it is clear from a protester's initial submission that the protester is not an interested party, GAO may dismiss the protest without requesting an agency report or affording the protester an opportunity for rebuttal.

Radix II Incorporated requests that we reconsider our decision, Radix II Incorporated, B-208557.2, September 30, 1982, 82-2 CPD \_\_\_\_\_. In that decision, we dismissed Radix's protest against certain nonresponsiveness determinations of the Naval Facilities Engineering Command because we found that Radix was not an interested party. Radix now challenges our determination that it is not an interested party. The firm also believes that, in rendering our earlier decision, we may have sought substantive information from the Navy and that it therefore should have been given an opportunity for rebuttal. Finally, it raises for the first time certain allegations concerning unequal treatment of bidders.

We affirm our decision.

In our decision, we held that Radix's position as a supplier to several bidders whose bids the Navy rejected as nonresponsive did not render the firm "interested," a prerequisite to our consideration of a protest under our Bid

Protest Procedures. See 4 C.F.R. § 21.1(a)(1982). We noted that the question of whether a party was sufficiently interested depended upon the degree to which its interest in the outcome of the protest was both established and direct. Radix's interest, we determined, was insufficient because Radix would not have been eligible for contract award even if the issues it raised were resolved in its favor.

Radix contends, however, that it is an interested party since it was responsible under several of the rejected bids for supplying a major portion of the computer technology as well as training for the energy monitoring and control system sought under the Navy solicitation.

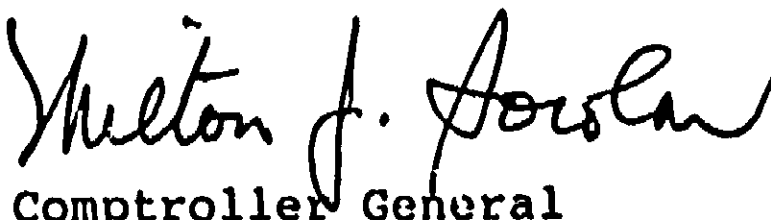
The "interested party" requirement set forth in our Bid Protest Procedures serves to ensure that the protesting party has a sufficient stake in the outcome to pursue the protest diligently. ABC Management Services, Inc., 55 Comp. Gen. 397 (1975), 75-2 CPD 245; Roy's Rabbitry, B-196452.2, May 9, 1980, 80-1 CPD 334. Generally, a potential subcontractor is not an interested party since the potential prime contractor usually has the greater interest in relation to contract award. Elec-Trol, Inc., 56 Comp. Gen. 730 (1977), 77-1 CPD 441. Under certain circumstances, however, we have found a proposed or possible subcontractor to be an interested party where no other immediate party had a greater interest concerning the issue raised and where there was a possibility that the subcontractor's interest would be inadequately protected if our bid protest forum were restricted solely to potential awardees. California Microwave, Inc., 54 Comp. Gen. 231 (1974), 74-2 CPD 181; Abbott Power Corporation, B-186568, December 21, 1976, 76-2 CPD 509. For instance, we have held that a subcontractor whose product was mentioned by name in the specifications was sufficiently interested to protest the solicitation's "brand name or equal" provisions. Mosler Systems Division, American Standard Company, B-204316, March 23, 1982, 82-1 CPD 273. We have also considered the protest of an electrician-subcontractor who challenged the wage rates for electricians set forth in the solicitation. Rosendin Electric, Inc., 60 Comp. Gen. 271 (1981), 81-1 CPD 119.

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In this case, we continue to believe that the primary interest in the issue raised by Radix's original protest, that is, bid responsiveness, rests with the bidders whose bids were rejected. The same is true with respect to the issues raised for the first time in the request for reconsideration. The fact that Radix would have supplied a major portion of aspects of the work called for by the contract does not raise Radix's interest to the level of that of the bidders whose bids were rejected. No bidder to whom Radix was a potential supplier has protested to this Office. Therefore, we still view Radix as not an interested party under our Bid Protest Procedures.

With respect to our summary dismissal of the initial protest, we point out that although it is our general practice to obtain a report from a contracting agency when a protest is filed, we did not request one in this case because it appeared from the face of Radix's submissions that Radix was not an interested party. We did contact the Navy informally, but only to obtain the name of the awardee. Since our decision concerning Radix's status was based solely on the information contained in Radix's submissions, there was no need to afford Radix an opportunity to rebut anything. See Gavlon Industries, Inc., B-199584.2, September 5, 1980, 82-1 CPD 402.

We affirm our decision.

*for*   
Comptroller General  
of the United States